

REFERENCE TITLE: verification of class three property

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2474

Introduced by
Representatives Knaperek, Nelson, O'Halleran, Yarbrough: Alvarez,
Anderson, Biggs, Bradley, Burton Cahill, Hershberger, Lopez L, McComish,
Reagan

AN ACT

AMENDING TITLE 11, CHAPTER 3, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-544; AMENDING SECTIONS 33-1902, 42-12052 AND 42-13002, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO PROPERTY TAX CLASSIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 11, chapter 3, article 7, Arizona Revised Statutes,
3 is amended by adding section 11-544, to read:
4 11-544. Assessor's residential rental identification fund
5 A. AN ASSESSOR'S RESIDENTIAL RENTAL IDENTIFICATION FUND SHALL BE
6 ESTABLISHED IN EACH COUNTY, CONSISTING OF MONIES RECEIVED PURSUANT TO SECTION
7 42-12052, SUBSECTION G, PARAGRAPH 2.
8 B. THE COUNTY ASSESSOR SHALL ADMINISTER THE FUND AND SPEND THE MONIES
9 IN THE FUND ONLY TO SUPPLEMENT GENERAL REVENUES FOR THE PURPOSES OF:
10 1. INVESTIGATING AND IDENTIFYING PROPERTY THAT IS LEASED OR RENTED
11 WHILE CLASSIFIED AS CLASS THREE PURSUANT TO SECTION 42-12003.
12 2. COMPLYING WITH SECTION 42-12052.
13 C. AT THE END OF EACH FISCAL YEAR ANY AMOUNT OF ANY BALANCE IN THE
14 FUND THAT EXCEEDS THE BALANCE AT THE BEGINNING OF THE FISCAL YEAR BY MORE
15 THAN TEN PER CENT SHALL BE TRANSFERRED TO THE COUNTY GENERAL FUND. ON OR
16 BEFORE OCTOBER 1 OF EACH YEAR THE ASSESSOR SHALL PROVIDE TO THE BOARD OF
17 SUPERVISORS A FULL ACCOUNTING OF THE MONIES DEPOSITED INTO AND PAID OUT OF
18 THE FUND DURING THE PRECEDING FISCAL YEAR.
19 Sec. 2. Section 33-1902, Arizona Revised Statutes, is amended to read:
20 33-1902. Residential rental property; recording with the
21 assessor; agent designation; civil penalty
22 A. An owner of residential rental property shall maintain with the
23 assessor in the county where the property is located information required by
24 this section in a manner to be determined by the assessor. The owner shall
25 update any information required by this section within ten days after a
26 change in the information occurs. The following information shall be
27 maintained:
28 1. The name, address and telephone number of the property owner.
29 2. If the property is owned by a corporation, limited liability
30 company, partnership, limited partnership, trust or real estate investment
31 trust, the name, address and telephone number of any of the following:
32 (a) For a corporation, a corporate officer.
33 (b) For a partnership, a general partner.
34 (c) For a limited liability company, the managing or administrative
35 member.
36 (d) For a limited partnership, a general partner.
37 (e) For a trust, a trustee.
38 (f) For a real estate investment trust, a general partner or an
39 officer.
40 3. The street address and parcel number of the property.
41 4. The year the building was built.
42 B. An owner of residential rental property who lives outside this
43 state shall designate and record with the assessor a statutory agent who
44 lives in this state and who will accept legal service on behalf of the owner.
45 The owner shall designate the agent in a manner to be determined by the

1 assessor. The information shall include the name, address and telephone
2 number of the agent.

3 C. Residential rental property shall not be ~~occupied~~ LISTED FOR RENT
4 OR LEASE if the information required by this section is not on file with the
5 county assessor. If the owner has not filed the information required by this
6 section with the county assessor and the residential rental property is
7 occupied by a tenant and the tenant chooses to terminate the tenancy, the
8 tenant shall deliver to the landlord, owner or managing agent of the property
9 a written ten day notice to comply with this section. The notice shall be
10 delivered by certified mail, return receipt requested, or by hand
11 delivery. If the owner does not comply with this section within ten days
12 after receipt of the notice, the tenant may terminate the rental agreement
13 and the landlord shall return all prepaid rent to the tenant. Security
14 deposits shall be returned in accordance with section 33-1321, subsection

15 D. The landlord shall return those monies by certified mail, return receipt
16 requested, or by hand delivery to the tenant within ten days after the
17 termination of the rental agreement. This subsection applies to any existing
18 lease and to any new lease after ~~the effective date of this amendment to this~~
19 ~~section~~ AUGUST 25, 2004. Notwithstanding this subsection, an owner is in
20 compliance with this subsection only if the owner had filed the information
21 required by subsection A of this section with the county assessor.

22 D. All records, files and documents that are required by this section
23 are public records.

24 E. A person who fails to comply with this section shall be assessed a
25 civil penalty of one thousand dollars, plus an additional one hundred dollars
26 for each month after the date of the original violation until compliance
27 occurs. The court shall not suspend any portion of the civil penalty
28 provided by this subsection.

29 F. Notwithstanding subsection E of this section, if a person complies
30 within ten days after receiving the complaint that notices the violation, the
31 court shall dismiss the complaint and shall not impose a civil penalty.

32 G. In carrying out this section the county assessor shall have
33 immunity as provided in section 12-820.01.

34 Sec. 3. Section 42-12052, Arizona Revised Statutes, is amended to
35 read:

36 42-12052. Review and verification of class three property;
37 notice to owner; penalty; appeals

38 A. Each county assessor shall review assessment information AND
39 INFORMATION RECEIVED PURSUANT TO SECTION 33-1902, on a continuing basis, to
40 ensure proper classification of residential dwellings. THE ASSESSOR MAY
41 ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH THE DEPARTMENT FOR AN EXCHANGE
42 OF INFORMATION TO ENSURE A COORDINATED AND COMPREHENSIVE REVIEW AND
43 IDENTIFICATION OF PROPERTY THAT MAY BE RENTED WHILE CLASSIFIED AS CLASS THREE
44 PURSUANT TO SECTION 42-12003.

1 B. If the assessor has reason to believe that a parcel of property
2 that is classified as class three pursuant to section 42-12003 is being
3 rented, the assessor shall notify the owner, in a form prescribed by the
4 department AS PROVIDED BY SUBSECTION G OF THIS SECTION, and request that the
5 owner respond as to whether the property is occupied by the owner or is used
6 as a rental property. If the owner fails to respond to the assessor within
7 thirty days after the notice is mailed, the assessor shall ~~mail~~ SEND the
8 owner a final notice BY CERTIFIED MAIL requesting that the owner provide
9 information as to whether or not the property is occupied by the owner or
10 used as a rental property.

11 C. If the owner fails to respond to the assessor within fifteen days
12 after the final notice is mailed, the assessor shall:

13 1. Reclassify the property as class four.

14 2. Notify the county treasurer who shall assess a CIVIL penalty
15 against the property equal to ~~twice the amount of the property taxes that~~
16 ~~would have been levied against the property if the property had been~~
17 ~~classified as class four pursuant to section 42-12004 in the preceding tax~~
18 ~~year~~ ONE AND ONE-HALF TIMES THE AMOUNT OF ADDITIONAL STATE AID TO EACH SCHOOL
19 DISTRICT PURSUANT TO SECTION 15-972 WITH RESPECT TO THE PROPERTY FOR UP TO
20 THE FOUR MOST RECENT CONSECUTIVE TAX YEARS IN WHICH THE PROPERTY WAS
21 INCORRECTLY CLASSIFIED.

22 D. UNTIL PAID OR WAIVED, THE PENALTY CONSTITUTES A LIEN AGAINST THE
23 PROPERTY AND MAY BE ENFORCED IN THE SAME MANNER AS A LIEN FOR DELINQUENT
24 TAXES.

25 ~~D.~~ E. The owner of the property shall pay a penalty under subsection
26 C, paragraph 2 of this section to the county treasurer within thirty days
27 after the notice of the penalty is mailed.

28 F. The owner may appeal the penalty OR RECLASSIFICATION, OR BOTH, to
29 the county board of supervisors within the time required for payment. If the
30 owner proves to the board's satisfaction that the property ~~is occupied by the~~
31 ~~owner~~ MEETS THE CRITERIA FOR RESIDENTIAL PROPERTY UNDER SECTION 42-12053, the
32 board shall ORDER THE COUNTY TREASURER TO waive the penalty, and ~~the property~~
33 ~~shall be listed~~ ORDER THE ASSESSOR TO CLASSIFY THE PROPERTY as class three
34 pursuant to section 42-12003. ~~Until paid or waived, the penalty constitutes~~
35 ~~a lien against the property.~~ IF THE BOARD FINDS THAT THE PROPERTY IS PROPERLY
36 RECLASSIFIED AS CLASS FOUR, THE BOARD SHALL NOT WAIVE THE PENALTY.

37 ~~E. In addition to other appeal procedures provided by law, the owner~~
38 ~~of property that is reclassified as class four under subsection C, paragraph~~
39 ~~1 of this section may appeal the reclassification to the county board of~~
40 ~~supervisors within thirty days after the notice of classification is mailed.~~
41 ~~If the owner proves to the board's satisfaction that the owner occupies the~~
42 ~~property, the board shall order the property to be reclassified as class~~
43 ~~three property pursuant to section 42-12003.~~

1 ~~F.~~ G. The county treasurer shall ~~deposit~~ ALLOCATE all revenue
2 received from penalties assessed under this section ~~in the county general~~
3 ~~fund.~~ AS FOLLOWS:

4 1. REMIT TO THE STATE TREASURER FOR CREDIT TO THE STATE GENERAL FUND
5 THE AMOUNT OF ADDITIONAL STATE AID PAID TO EACH SCHOOL DISTRICT WITH RESPECT
6 TO THE PROPERTY PURSUANT TO SECTION 15-972 IN THE MOST RECENT TAX YEAR.

7 2. DEPOSIT THE REMAINDER OF THE REVENUES TO THE ASSESSOR'S RESIDENTIAL
8 RENTAL IDENTIFICATION FUND ESTABLISHED PURSUANT TO SECTION 11-544.

9 ~~G.~~ H. The department shall:

10 1. Prescribe all forms used to notify property owners under this
11 section. The forms shall contain information as to CRITERIA FOR the
12 reclassification of property and the civil penalties that may result if the
13 owner fails to respond to the notice.

14 2. MONITOR AND REVIEW THE PROCEDURES AND PRACTICES USED BY ASSESSORS
15 AND TREASURERS TO ACCOMPLISH THE REVIEW AND VERIFICATION OF CLASS THREE
16 PROPERTY AND THE ASSESSMENT AND COLLECTION OF PENALTIES PRESCRIBED BY THIS
17 SECTION AND PROPOSE SUGGESTED IMPROVEMENTS TO ESTABLISH UNIFORM PROCESSES AND
18 PERFORMANCE AMONG THE COUNTIES.

19 Sec. 4. Section 42-13002, Arizona Revised Statutes, is amended to
20 read:

21 42-13002. Relationship between department and county assessors

22 A. The department shall:

23 1. Exercise general supervision over county assessors in administering
24 the property tax laws to ensure that all property is uniformly valued for
25 property tax purposes.

26 2. Prescribe forms to be used by county assessors for:

27 (a) Listing and valuing property for tax purposes.

28 (b) Reporting changes in valuations.

29 (c) Such other purposes as the department may require under this
30 title.

31 3. Assist county assessors:

32 (a) In maintaining uniform maps and records.

33 (b) In placing on the rolls the valuations determined under this
34 chapter.

35 (c) To assure a uniform valuation of all property throughout
36 the state for property tax purposes, including providing the services of
37 department personnel to the assessors. The department may charge to the
38 county the costs of department personnel provided to that county.

39 B. THE DEPARTMENT MAY:

40 1. REQUIRE THE RECLASSIFICATION OF PROPERTY, IF NECESSARY.

41 2. REQUIRE INFORMATION FROM THE COUNTY ASSESSOR'S OFFICE TO VERIFY
42 COMPLIANCE WITH THE PROCEDURES PRESCRIBED BY SECTION 42-12052.

1 ~~B.~~ C. The director and county assessors shall meet at the state
2 capitol, or at a place designated by the director, at least twice each year
3 to consider matters relating to property taxation. The traveling expenses of
4 assessors in attending these meetings shall be paid by the respective
5 counties.

6 Sec. 5. Temporary waiver of penalties

7 A. Notwithstanding section 42-12052, Arizona Revised Statutes, as
8 amended by this act, if an owner of property that is currently rented while
9 classified as class three pursuant to section 42-12003, Arizona Revised
10 Statutes, voluntarily notifies the county assessor of the county in which the
11 property is located on or before October 1, 2006 to reclassify the property
12 as class four, the assessor shall notify the board of supervisors and the
13 county treasurer, and any penalties otherwise applicable to the property
14 under section 42-12052, Arizona Revised Statutes, are waived.

15 B. An owner does not qualify for a waiver of penalties under this
16 section if the assessor has mailed any notice with respect to the property
17 under section 42-12052, subsection B, Arizona Revised Statutes.

18 C. A request for waiver of the penalties under this section
19 constitutes a waiver of appeal rights under section 42-12052, subsection F,
20 Arizona Revised Statutes, as amended by this act.

21 Sec. 6. Appropriation; purposes; exemption

22 A. The sum of \$_____ is appropriated from the state general fund in
23 fiscal year 2005-2006 to the department of revenue to:

24 1. Establish a program to assist county assessors in reviewing and
25 identifying property that is rented while classified as class three pursuant
26 to section 42-12003, Arizona Revised Statutes.

27 2. Compile and report to the governor and legislature the number and
28 assessed valuation of properties reclassified from class three to class four
29 pursuant to this act in 2006 and the amount of payments of additional state
30 aid to education avoided in fiscal year 2006-2007.

31 B. The appropriation made in subsection A of this section is exempt
32 from the provisions of section 35-190, Arizona Revised Statutes, relating to
33 lapsing of appropriations, except that any monies remaining unexpended and
34 unencumbered on June 30, 2007 revert to the state general fund.

35 Sec. 7. Retroactivity

36 Sections 1 through 4 of this act apply retroactively to tax years
37 beginning from and after December 31, 2005.

38 Sec. 8. Emergency

39 This act is an emergency measure that is necessary to preserve the
40 public peace, health or safety and is operative immediately as provided by
41 law.